

Shawrence  
#12  
9.20.02

S/N 09/367,859

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: James Samsoondar

Examiner: Arlen Soderquist

Serial No.: 09/367,859

Group Art Unit: 1743

Filed: September 2, 1999

Docket: 1194.002US1

Title: METHOD AND APPARATUS FOR MEASUREMENT OF BLOOD  
SUBSTITUTES



PETITION TO CORRECT INVENTORSHIP  
PURSUANT TO 37 C.F.R. 1.48(a)

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Commissioner for Patents  
Washington, D.C. 20231

I, Duncan MacIntyre, make this petition pursuant to 37 C.F.R. 1.48(a), to correct the inventorship of the invention claimed in the above-identified patent application, U.S. Patent Application Serial No. 09/367,859.

When the present application was filed, James Samsoondar was the sole named inventor. However, Applicants' Representatives have further reviewed the inventorship and have determined that the co-inventors of the claims as filed and the pending claims are James Samsoondar and Duncan MacIntyre.

Petitioner hereby requests that the name of Duncan MacIntyre be added as a co-inventor of the above-identified application.

Furthermore, Duncan MacIntyre states that the error which caused the inventive entity to be set forth in error in the executed 37 C.F.R. 1.63 declaration filed on September 2, 1999 in the above-identified application arose without deceptive intent on his part.

Therefore, correction of the inventorship of the present application is appropriate under 37 C.F.R. 1.48(a), and is respectfully requested.

The Examiner is hereby authorized to charge **Deposit Account No. 19-0743** for the fee of \$130.00 as required under 37 C.F.R. 1.17.

09/11/2002 MAHMEDI 00000141 190743 09367859

01 FC:122 130.00 CH

July 26, 2002  
Date

[Signature]  
Duncan MacIntyre

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SCHWEGMAN ■ LUNDBERG ■ WOESSNER ■ KLUTH

## United States Patent Application

SUBSTITUTE COMBINED DECLARATION AND POWER OF ATTORNEY

Attorney Docket No. 1194.002US1

As a below named inventor I hereby declare that: my residence, post office address and citizenship are as stated below next to my name; that

I verily believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled: **METHOD AND APPARATUS FOR MEASUREMENT OF BLOOD SUBSTITUTES.**

The specification of which was filed on September 2, 1999 as application serial no. 09/367,859 and was amended on November 5, 2001, June 3, 2002.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with 37 C.F.R. § 1.56 (attached hereto). I also acknowledge my duty to disclose all information known to be material to patentability which became available between a filing date of a prior application and the national or PCT international filing date in the event this is a Continuation-In-Part application in accordance with 37 C.F.R. § 1.63(e).

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed:

**No such claim for priority is being made at this time.**

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

**No such claim for priority is being made at this time.**

I hereby claim the benefit under 35 U.S.C. § 120 or 365(c) of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in a prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which became available between the filing date of the prior application and the national or PCT international filing date of this application:

**No such claim for priority is being made at this time.**

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I hereby appoint the following attorney(s) and/or patent agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith:

Anglin, J. Michael	Reg. No. 24,916	Greaves, John N.	Reg. No. 40,362	Nama, Kash	Reg. No. 44,255
Aronoff, Marvin S.	Reg. No. 35,052	Haack, John L.	Reg. No. 36,154	Nelson, Albin J.	Reg. No. 28,650
Arora, Suneel	Reg. No. 42,267	Harris, Robert J.	Reg. No. 37,346	Nielsen, Walter W.	Reg. No. 25,539
Beekman, Marvin L.	Reg. No. 38,377	Jackson Huebsch, Katharine A.	Reg. No. 47,670	Padys, Danny J.	Reg. No. 35,635
Berdie, Raymond R.	Reg. No. 50,769	Jurkovich, Patti J.	Reg. No. 44,813	Parker, J. Kevin	Reg. No. 33,024
Bianchi, Timothy E.	Reg. No. 39,610	Kalis, Janal M.	Reg. No. 37,650	Perdok, Monique M.	Reg. No. 42,989
Billion, Richard E.	Reg. No. 32,836	Klima-Silberg, Catherine I.	Reg. No. 40,052	Peret, Andrew R.	Reg. No. 41,246
Black, David W.	Reg. No. 42,331	Kluth, Daniel J.	Reg. No. 32,146	Peterson, David C.	Reg. No. 47,857
Brennan, Thomas F.	Reg. No. 35,075	Lacy, Rodney L.	Reg. No. 41,136	Prout, William F.	Reg. No. 33,995
Brooks, Edward J., III	Reg. No. 40,925	Lemaire, Charles A.	Reg. No. 36,198	Schumm, Sherry W.	Reg. No. 39,422
Chadwick, Robin A.	Reg. No. 36,477	LeMoine, Dana B.	Reg. No. 40,062	Schwegman, Micheal L.	Reg. No. 25,816
Clark, Barbara J.	Reg. No. 38,107	Lundberg, Steven W.	Reg. No. 30,568	Scott, John C.	Reg. No. 38,613
Clise, Timothy B.	Reg. No. 40,957	Maki, Peter C.	Reg. No. 42,832	Speier, Gary J.	Reg. No. 45,458
Cochran, David R.	Reg. No. 46,632	Malen, Peter L.	Reg. No. 44,894	Steffey, Charles E.	Reg. No. 25,179
Dahl, John M.	Reg. No. 44,639	Mates, Robert E.	Reg. No. 35,271	Stordal, Leif T.	Reg. No. 46,251
Drake, Eduardo E.	Reg. No. 40,594	McCrackin, Ann M.	Reg. No. 42,858	Terry, Kathleen R.	Reg. No. 31,884
Embretson, Janet E.	Reg. No. 39,665	McGough, Kevin J.	Reg. No. 31,279	Tong, Viet V.	Reg. No. 45,416
Forrest, Bradley A.	Reg. No. 30,837	McTavish, Hugh E.	Reg. No. 48,341	Viksnins, Ann S.	Reg. No. 37,748
Gamon, Owen J.	Reg. No. 36,143	Mehrle, Joseph P.	Reg. No. 45,535	Woessner, Warren D.	Reg. No. 30,440
Gorrie, Gregory J.	Reg. No. 36,530	Moore, Charles L., Jr.	Reg. No. 33,742		
Gortych, Joseph E.	Reg. No. 41,791	Muller, Mark V.	Reg. No. 37,509		

I hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization/who/which first sends/sent this case to them and by whom/which I hereby declare that I have consented after full disclosure to be represented unless/until I instruct Schwegman, Lundberg, Woessner & Kluth, P.A. to the contrary.

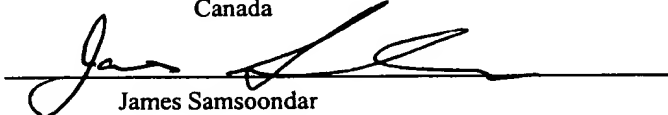
Please direct all correspondence in this case to Schwegman, Lundberg, Woessner & Kluth, P.A. at the address indicated below:  
**P.O. Box 2938, Minneapolis, MN 55402**  
**Telephone No. (612)373-6900**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

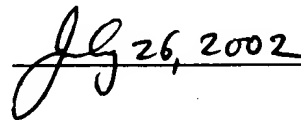
Full Name of joint inventor number 1 : **James Samssoondar**  
Citizenship: **Canada**  
Post Office Address: **40 Hilborn Avenue**  
**Cambridge, Ontario N1T 1M7**  
**Canada**

Residence: **Cambridge, Ontario, Canada**

Signature:

  
James Samssoondar

Date:

  
26, 2002

Attorney Docket No.: 1194.002US1  
Serial No. 09/367,859  
Filing Date: September 2, 1999

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Page 3 of 4

Full Name of joint inventor number 2 : Duncan MacIntyre

Citizenship: Canada

Residence: Campbellville, Ontario, Canada

Post Office Address: 120 Crawford Crescent  
Campbellville, Ontario L0P 1B0  
Canada

Signature: \_\_\_\_\_

  
Duncan MacIntyre

Date: \_\_\_\_\_

August 26, 2002

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

D. Lawrence  
#13  
9.20.02

S/N 09/367,859

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: James Samsoondar

Examiner: Arlen Soderquist

Serial No.: 09/367,859

Group Art Unit: 1743

Filed: September 2, 1999

Docket: 1194.002US1

Title: METHOD AND APPARATUS FOR MEASUREMENT OF BLOOD  
SUBSTITUTES

CONSENT OF ASSIGNEE TO CORRECTION OF INVENTORSHIP

Commissioner for Patents  
Washington, D.C. 20231

CME TELEMETRIX INC. , a Canadian corporation, of 560 Parkside Drive, Waterloo, Ontario N2L 5Z4, Canada, being the sole owner of the above-identified application, as evidenced by the Assignment from James Samsoondar executed October 5, 1999 (copy attached), and by the assignment from Duncan MacIntyre being filed herewith, hereby consents to the change of inventorship in the above-identified application from the sole inventorship of James Samsoondar to the joint inventorship of James Samsoondar and Duncan MacIntyre.

I declare that I am an Official of the Assignee who is empowered to authorize this consent.

Date: July 26, 2002

Name: DUNCAN MACINTYRE

Title: President & CEO

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## CANADA

ASSIGNMENT

WHEREAS I, JAMES SAMSOONDAR, whose full post office address is 40 Hilborn Avenue, Cambridge, Ontario, N1T 1M7, Canada, have invented certain new and useful improvements in an invention entitled **METHOD AND APPARATUS FOR MEASUREMENT OF BLOOD SUBSTITUTES** for which PCT Application No. PCT/CA97/00759 filed October 16, 1997 entered the Canadian national phase on September 2, 1999 under the above title,

AND WHEREAS CME TELEMETRIX INC., of 560 Parkside Drive, Waterloo, Ontario, N2L 5Z4, Canada, has acquired from me the whole right, title and interest for the Canada and all other countries in and to the said invention and in and to any Letters Patent that may be obtained therefor, and in and to said application,


NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of all of which is hereby acknowledged, I, JAMES SAMSOONDAR, by these presents confirm that I have sold, assigned and transferred and do hereby sell, assign and transfer unto the said CME TELEMETRIX INC., and CME TELEMETRIX INC. hereby accepts the full and exclusive right to the said invention in Canada and all other countries and the entire right, title and interest in and to any and all Letters Patent which may be granted therefor, including, without limiting the generality of the foregoing, the right to claim damages for past infringement, and the entire right, title and interest in and to said application, and in and to any divisions, continuations, continuations-in-part and extensions of said application, including, without limiting the generality of the foregoing, the right to claim damages for past infringement, together with the right to claim the benefit of the right of priority provided by the International Convention for the Protection of Industrial Property

based on said application for Canadian Letters Patent.

I agree that I will without further consideration do all such things and execute all such documents as may be necessary or desirable to obtain and maintain patents for said invention and for additions and modifications thereto in any and all countries, and to vest title thereto in said assignee, its successors, assigns and legal representatives or nominees.


I hereby authorize and request the Commissioner of Patents and Trademarks to issue said Letters Patent to said CME TELEMETRIX INC. the assignee of the entire right, title and interest in and to the same, for its sole use and benefit, and for the use and benefit of its successors and assigns, to the full end of the term for which Letters Patent may be granted as fully and entirely as the same would have been held by me had this assignment and sale not been made.

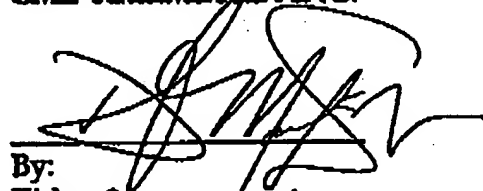
SIGNED this 5<sup>th</sup> day of October, 1999, at Waterloo, Ont..

  
Witness

  
JAMES SAMSOONDAR

CME TELEMETRIX INC.

  
Witness

  
By:  
Title: PRESIDENT & CEO